

## **CHAPTER 13: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES**

Article

**I. IN GENERAL**

**II. SIDEWALKS**

**III. STREETS**

**IV. EXCAVATIONS**

**V. VEGETATION ON PUBLIC PROPERTY**

**VI. PARKS AND RECREATIONAL AREAS**

**VII. NUMBERING OF PROPERTY**



## ARTICLE I: IN GENERAL

### Section

- 13-1 Obstruction by objects
- 13-2 Obstruction by crowds
- 13-3 Playing ball in street or sidewalk prohibited
- 13-4 Obstructing or damaging drainageways prohibited
- 13-5 Depositing trash, refuse prohibited
- 13-6 Distributing and posting handbills and posters prohibited
- 13-7 Damaging bridges, culverts prohibited
- 13-8 Damaging city property
- 13-9 Consumption of malt beverages and unfortified wines on public property

### § 13-1 OBSTRUCTION BY OBJECTS.

(A) No brick, stone, wood or other substances obstructing the free passage of persons or vehicles shall be placed or permitted to lie on sidewalks of the city in business districts. Decorative planters, benches and other such items may be placed on sidewalks in business districts, provided they do not interfere with the normal passage of pedestrians. Business owners or operators may only place such items directly in front of their own place of business and express written permission of the property owner for the planting, placing or erecting of such items shall accompany the request.

(B) Such items may not project into any street, alleyway or other thoroughfare in any way that would impede normal traffic flow, interfere with parking or cause sight obstruction. Persons planting, placing or erecting approved items on public sidewalks are responsible for the maintenance and upkeep of these items. Any items placed must be properly maintained for both safety and appearance. Benches must be kept painted and in proper order. Planters must contain live blooming or green plants which are kept neat and attractive in appearance. Planters must be kept free of trash and rubbish. Any benches or planters which become damaged must be repaired or removed. Items which are not properly maintained, or which may cause a safety or health hazard, shall be ordered removed from the sidewalks. Any person erecting a building may, with permission, place building material for immediate use on the streets in such a way as to not interfere with the normal passage of vehicles and pedestrians.

(C) The Planning and Inspections Director shall review all plans for planting, placing or erecting such items. No such items shall be planted, placed or erected before the receipt of a permit.

(D) If, upon inspection, the Director shall determine that such items are in violation of these provisions, the items shall be immediately removed either by the business or property owner or by the city if they cause unsafe situations. Otherwise, the items shall be removed within seven days of written notice

of the violation. If the items are not removed by the business or property owner, the city will remove them and the costs for such removal shall be assessed to the business and property owner.

(E) In addition to any remedies hereinbefore specifically authorized by this section, the provisions of this section may be enforced by the city by any appropriate legal remedy authorized by § 1-16 of the Eden City Code. Violations of this section may be punished by civil penalty in the amount of \$100 for each violation which penalty shall be enforced as provided by § 1-16.2 of the City Code which remedy shall be non-exclusive.

('89 Code, § 13-1) (Am. Ord. passed 1-18-05) Penalty, see § 1-16 *et seq.*

**Statutory reference:**

*Placing glass, etc., on road prohibited, see G.S. § 136-91*

**§ 13-2 OBSTRUCTION BY CROWDS.**

All persons are forbidden from assembling or collecting and standing so as to obstruct any sidewalk or street, and all persons so collecting and standing shall disperse and move upon the demand of any police officer.

('89 Code, § 13-2) Penalty, see § 1-16 *et seq.*

**Statutory reference:**

*Obstructing streets prohibited, see G.S. § 136-90*

**§ 13-3 PLAYING BALL IN STREET OR SIDEWALK PROHIBITED.**

No person shall play ball or bat or catch balls on any of the streets or sidewalks of the city.

('89 Code, § 13-3) Penalty, see § 1-16 *et seq.*

**§ 13-4 OBSTRUCTING OR DAMAGING DRAINAGEWAYS PROHIBITED.**

(A) It shall be unlawful for any person to obstruct or cause to be obstructed the free flow of water in, over, along, upon or through any drainage ditch, street gutter, culvert or other drainageway in any public street or other public way or other natural drainage course within the city limits by depositing any trash, refuse, tree or shrubbery trimmings, building material scraps or other matter therein.

(B) It shall be unlawful for any person to dump or deposit or cause any gasoline, fuel oil, naphtha or other flammable liquid, any liquid wastes containing a toxic or poisonous substance or any lubricating oil, grease or detergent to drain into any drainage ditch, street gutter, culvert or other drainageway in any public street or other public way or other natural drainage course within the city limits.

('89 Code, § 13-4) Penalty, see § 1-16 *et seq.*

**Statutory reference:**

*Obstructing street drains prohibited, see G.S. § 136-92*

**§ 13-5 DEPOSITING TRASH, REFUSE PROHIBITED.**

(A) It shall be unlawful for any person to dump, drop, throw or otherwise deposit upon any street or sidewalk any scrap paper, bottles, cans, glass, rags, feathers, dirt, rocks, gravel, sand, building material scraps, tree and shrubbery trimmings, liquid wastes, lubricating or fuel oil, flammable or combustible wastes or any other trash, refuse or other debris.

(B) Any person violating this section shall be guilty of a misdemeanor and shall be fined not more than \$500, or imprisoned for not more than 30 days.

(C) The maximum fine for a violation of this section is greater than \$50 as authorized by G.S. § 14-4(a).  
(‘89 Code, § 13-5) (Am. Ord. passed 12-23-91)

**§ 13-6 DISTRIBUTING AND POSTING HANDBILLS AND POSTERS PROHIBITED.**

It shall be unlawful for any person to:

(A) Place any posters, circulars, notices or other advertising matter in cars standing or parked on the streets; or

(B) Tack, paste or otherwise attach such material to telephone poles, electric light poles or any building situated in the city.  
(‘89 Code, § 13-6) Penalty, see § 1-16 *et seq.*

**§ 13-7 DAMAGING BRIDGES, CULVERTS PROHIBITED.**

No person shall injure or move any part of any bridge, culvert, ditch, drain or other property belonging to or used by the city.  
(‘89 Code, § 13-7)

**§ 13-8 DAMAGING CITY PROPERTY.**

No person shall injure, tamper with, remove or paint upon or deface any sign, signpost, streetlight, traffic signal or other municipal property upon the streets and sidewalks except employees of the city in performance of their duties.  
(‘89 Code, § 13-8) Penalty, see § 1-16 *et seq.*

**§ 13-9 CONSUMPTION OR POSSESSION OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY.**

It shall be unlawful for any person to consume alcoholic beverages on property owned or occupied by the city except as provided below:

- A. By permit of the City Manager for a special event under the following circumstances:
  1. The applicant shall be the organizer of the event, and shall also be a small business or non-profit organization; and
  2. The location of the event must be in a municipal parking lot or public rights of way; and
  3. The date, location and times of operation of the event shall be clearly defined in the application, and the area shall be cordoned off or otherwise adequately marked for the participants, and alcohol shall not be served or consumed before 10:00 A.M. or after 11:00 P.M., and the event shall not exceed beyond the approval date or time; and
  4. The organizers of the event shall show proof of insurance that will cover any and all incidents involving the event and the consumption of alcohol; and
  5. All other state and local licenses must be obtained prior to the issuance of the permit by the City Manager; and
  6. The permit may be revoked as a result of a violation of the conditions of the permit or violation of state law or local ordinance.
- B. By permit of the City Manager for a restaurant that sells alcohol pursuant to a license by the Alcoholic Beverage Control Commission as provided below:
  1. The applicant shall be the owner of the restaurant or store; and
  2. A restaurant that sells alcohol will be able to serve alcohol to customers seated at tables on sidewalks immediately outside of their respective businesses or adjacent to their businesses, provided the area is cordoned off and separated from the general public; and
  3. The duration of the permit shall not exceed one year and the applicant shall pay all fees associated with the permit as established by the City Council through a separate ordinance or through the annual budget ordinance; and
  4. The owner of the restaurant or store shall show proof of insurance that will cover any and all incidents involving the sale and consumption of alcohol; and
  5. The City of Eden will be named as an additional insured and the amount of insurance coverage will be at the level recommended by the North Carolina League of Municipalities; and
  6. All other state and local licenses must be obtained prior to the issuance of the permit by the City Manager; and

7. The permit may be revoked as a result of a violation of the conditions of the permit or violation of state law or local ordinance.  
(Ord. passed 6-28-94) (Am. Ord. passed 11-18-08) Penalty, see § 1-16 *et seq.*





## ARTICLE II: SIDEWALKS

### Section

- 13-26 Sale or display of goods
- 13-27 Occupant responsible for removal of snow
- 13-28 Skating prohibited
- 13-29 Unlawful to ride bicycle on sidewalk
- 13-30 Construction permit; specifications
- 13-31 Construction of passageway when building near sidewalk

### **§ 13-26 SALE OR DISPLAY OF GOODS.**

No person shall place for display or sale any goods, wares or merchandise of any kind upon any of the sidewalks of the city; provided, however, that in the event of promotional sales of citywide scope, such goods, wares or merchandise may be displayed and sold on the sidewalks of the city with the written permission of the City Manager.

('89 Code, § 13-26) Penalty, see § 1-16 *et seq.*

#### ***Cross-reference:***

*Peddlers and solicitors, see Chapter 7, Article VII*

### **§ 13-27 OCCUPANT RESPONSIBLE FOR REMOVAL OF SNOW.**

Every occupant of a store or office building in front of which the sidewalk is paved with stone, brick, asphalt or cement shall remove any snow, ice or other obstruction from such sidewalk at the earliest possible time and as soon as the weather permits.

('89 Code, § 13-27) Penalty, see § 1-16 *et seq.*

### **§ 13-28 SKATING PROHIBITED.**

It shall be unlawful for any person to skate on roller skates on the sidewalks anywhere within the city.

('89 Code, § 13-28) Penalty, see § 1-16 *et seq.*

**§ 13-29 UNLAWFUL TO RIDE BICYCLE ON SIDEWALK.**

It shall be unlawful for any person to ride a bicycle on any sidewalk in the city.  
(‘89 Code, § 13-29) Penalty, see § 1-16 *et seq.*

**§ 13-30 CONSTRUCTION PERMIT; SPECIFICATIONS.**

No sidewalk of any description shall be built by any person of any brick, cement or other material without a written permit from the City Engineer. Sidewalks shall be constructed in accordance with specifications or other requirements of the city.  
(‘89 Code, § 13-30) Penalty, see § 1-16 *et seq.*

**§ 13-31 CONSTRUCTION OF PASSAGEWAY WHEN BUILDING NEAR SIDEWALK.**

Before building or remodeling any structure where it is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and to provide safe passage for pedestrians and vehicles. Such passageway shall be constructed in accordance with the requirements of the city.  
(‘89 Code, § 13-31) Penalty, see § 1-16 *et seq.*

## ARTICLE III: STREETS

### Section

#### *Division 1 Generally*

- 13-51 Injury from harrows and other implements, machines prohibited
- 13-52 Street name signs

#### *Division 2 Curb and Gutter*

- 13-66 Petition
- 13-67 Without petition
- 13-68 Specifications; grates

#### *Division 3 Closing or Vacating*

- 13-86 Scope
- 13-87 Initial action
- 13-88 Resolution and recommendation of Council
- 13-89 Public notice
- 13-90 Public hearing; basis for decision
- 13-91 Registration of ordinance
- 13-92 Appeal to court
- 13-93 Disposition of property

#### *Division 4 Improvements*

- 13-111 Applicability
- 13-112 Acceptance by city
- 13-113 Subdivision streets
- 13-114 Cemeteries

#### *Division 6 Visibility at Intersections*

- 13-126 Applicability
- 13-127 Administration
- 13-128 Obstructions prohibited; exceptions
- 13-129 Abatement of unlawful obstructions
- 13-130 Use of traffic-control devices
- 13-131 Conflicting regulations

***DIVISION 1 GENERALLY*****§ 13-51 INJURY FROM HARROWS AND OTHER IMPLEMENTS, MACHINES PROHIBITED.**

It shall be unlawful for any person to drag, run or cause to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt, bithulitic, warrenite or other permanently paved street of the city which shall be liable in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

('89 Code, § 13-51) Penalty, see § 1-16 *et seq.*

**§ 13-52 STREET NAME SIGNS.**

(A) All streets that are open and that are publicly maintained by either the city or the North Carolina Department of Transportation will be designated by the posting of a street name sign having a green blade with white letters.

(B) Those streets that are open and that are privately maintained shall be designated by the posting of a street name sign having a white blade with green letters.

(C) There shall be no exceptions in the color or combination of colors of street name signs posted by the city unless the City Council shall pass a special ordinance exempting a specific street name sign from the requirements of this section.

(Ord. passed 11-19-91)

***CURB AND GUTTER*****§ 13-66 PETITION.**

(A) Any petition submitted for curb and gutter must be for both sides of a street and for an entire block, except that a petition for a length of a street which is for less than an entire block but is for a continuous part of a long block and is for both sides of a length of street not less than 400 feet may be submitted to the City Council for approval.

(B) A petition for both sides of an entire block shall be placed on a construction schedule based on the date the complete and correct petition is submitted.

(C) A petition for less than a block shall be placed on a construction schedule based on the date the complete and correct petition is submitted providing such petition is approved by the City Council. ('89 Code, § 13-66)

**Statutory reference:**

*Authority to adopt curbcut regulations, see G.S. § 160A-307*

**§ 13-67 WITHOUT PETITION.**

(A) If the owner of property desires curb and gutter but does not meet the requirements of § 13-60, such property owner shall submit a request for curb and gutter to the city in letter form. Such request and the area shall be studied by the City Engineer and a recommendation for acceptance or rejection of the request shall be submitted to the City Council which shall make the final determination.

(B) Immediately after approval of a request by the City Council, the property owner shall be notified and the property owner shall submit payment in full to the city. The request for curb and gutter shall be placed on a construction schedule based on the date payment is received; where more than one property owner is involved in one area, the construction schedule shall be based on the date payment is received from the last property owner in the area.

('89 Code, § 13-67)

**§ 13-68 SPECIFICATIONS; GRATES.**

(A) The curb and gutter shall be a standard 24 inches or shall be curb with a sidewalk with a maximum width of 36 inches and shall be designed and placed according to standard engineering practice.

(B) The standard precast iron grate shall be used with catch basin construction.

('89 Code, § 13-68) Penalty, see § 1-16 *et seq.*

***DIVISION 3 CLOSING OR VACATING***

**§ 13-86 SCOPE.**

This division shall regulate and establish the procedure for permanently closing public streets and alleys within the planning jurisdiction of the city and shall apply to any and all public streets and alleys that have been irrevocably dedicated to the public without regard to whether they have actually been opened.

('89 Code, § 13-86) (Am. Ord. passed 3-19-02)

**Statutory reference:**

*Authority to close any street or alley, see G.S. § 160A-296(4)*

*Procedure for permanently closing streets and alleys, see G.S. § 160A-299*

**§ 13-87 INITIAL ACTION.**

The procedure for permanently closing a street or public alley may be initiated by:

(A) An affirmative vote of a majority of the members present at a meeting of the City Council;

(B) A petition signed by 100% of property owners whose property abuts the street or public alley to be closed. Such petition must be submitted to the City Clerk five days prior to presenting such petition to the City Council. Each petitioner must submit a copy of his deed showing the legal description.

('89 Code, § 13-87)

**§ 13-88 RESOLUTION AND RECOMMENDATION OF COUNCIL.**

(A) When it is proposed to permanently close a street or public alley, the City Council shall first adopt a resolution declaring its intent to close such street or public alley and call a public hearing on the question.

(B) Simultaneously the City Council shall request the Planning and Zoning Board to submit a recommendation on the proposed closing of the street or alley and such recommendation will be considered at the time of the public hearing.

(G.S. § 160A-299(a)) ('89 Code, § 13-88)

**§ 13-89 PUBLIC NOTICE.**

The resolution of intent to close a street or alley shall be published once a week for four successive weeks prior to the hearing in a newspaper having general circulation in the city. A copy of the resolution shall be sent by registered or certified mail to all owners of property adjoining the street or alley as shown on the county tax records and a notice of the closing and public hearing shall be prominently posted in at least two places along the street or alley. If the street or alley is under the authority and control of the State Department of Transportation, a copy of the resolution shall be mailed to that Department.

(G.S. § 160A-299(a)) ('89 Code, § 13-89)

**§ 13-90 PUBLIC HEARING; BASIS FOR DECISION.**

At the hearing on the proposal to close a street or public alley, any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If after such hearing it appears to the satisfaction of the Council that closing the street or alley is not contrary to public interest, and that the city has no interest in preserving the dedication of such street or alley for municipal purposes, and that no individual owning property in the vicinity of the street or alley or in the subdivision in which it is located would thereby be deprived of

reasonable means of ingress and egress to his property, the Council may adopt an ordinance closing the street or alley.

(G.S. § 160A-299(a)) ('89 Code, § 13-90)

### **§ 13-91 REGISTRATION OF ORDINANCE.**

A certified copy of the ordinance closing the street or alley shall be filed in the office of the Register of Deeds of the county in which the street or alley or any portion thereof is located.

(G.S. § 160A-299(a)) ('89 Code, § 13-91)

### **§ 13-92 APPEAL TO COURT.**

(A) Any person aggrieved by the closing of any street or alley including the State Department of Transportation if the street or alley is under its authority and control, may appeal the Council's order to the General Court of Justice within 30 days after its adoption. In appeals of streets closed under this section, all facts and issues shall be heard and decided by a judge sitting without a jury. In addition to determining whether procedural requirements were complied with, the court shall determine whether, on the record as presented to the City Council, the Council's decision to close the street was in accordance with the statutory standards of G.S. § 160A-299(a) and any other applicable requirements of local law or ordinance.

(B) No cause of action or defense founded upon the invalidity of any proceedings taken in closing any street or alley may be asserted, nor shall the validity of the order be open to question in any court upon any ground whatever, except in an action or proceeding begun within 30 days after the order is adopted. The failure to send notice by registered or certified mail shall not invalidate any ordinance adopted prior to January 1, 1989.

('89 Code, § 13-92)

***Statutory reference:***

*For similar provisions, see G.S. § 160A-299(b)*

### **§ 13-93 DISPOSITION OF PROPERTY.**

Upon the closing of a street or alley in accordance with this division, all right, title and interest in the right-of-way shall be conclusively presumed to be vested in those persons owning lots or parcels of land adjacent to the street or alley, and the title of such adjoining landowners, for the width of the abutting land owned by them, shall extend to the centerline of the street or alley.

(G.S. § 160A-299(c)) ('89 Code, § 13-93)

***DIVISION 4 IMPROVEMENTS*****§ 13-111 APPLICABILITY.**

This division shall apply to a street which has been dedicated for public use prior to January 1, 1980, but which is not now nor ever has been maintained by the city prior to this time and which is not regulated by the subdivision ordinance.

('89 Code, § 13-111)

***Statutory reference:***

*Special assessments, see G.S. § 160A-216 et seq.*

**§ 13-112 ACCEPTANCE BY CITY.**

No street, alley or other public way dedicated for public use within the city will be accepted by such city as a public street and no maintenance or improvement will be authorized thereon by such city unless and until such improvements required by this division have been made and such street has been accepted for maintenance by the City Council.

('89 Code, § 13-112)

**§ 13-113 SUBDIVISION STREETS.**

The developer in whose subdivision the street is located or the owner of the adjoining property shall make the following improvements:

(A) The right-of-way shall be cleared and graded to its final grade for the full width of the right-of-way. Grades shall not insofar as is practical exceed 7%.

(B) Streets shall be crowned to a ratio of ¼ inch per foot, adequate street drainage ditches shall be constructed and storm drain pipe shall be installed in accordance with street improvement specifications established by the city.

(C) ABC (crush and run) stone shall be used for a base course and shall be put in place for a minimum width of 20 feet and six inches and compacted to a depth of six inches. A course of two inches of binder shall be put in place.

(D) Shoulder, eight feet minimum, shall be provided for parking space.

(E) The street shall be surfaced with one and one-half inch thickness of I-2 asphalt and to a width of 20 feet.

('89 Code, § 13-113) (Am. Ord. passed 1-21-03) Penalty, see § 1-16 *et seq.*



**§ 13-114 CEMETERIES.**

Prior to acceptance for maintenance of any street in a cemetery, the street shall be improved according to the following standards:

(A) The minimum right-of-way shall be 20 feet.

(B) The proposed street shall adjoin an existing street being maintained by a governmental organization.

(C) The street property shall be deeded to the city or registered as a public way with the County Register of Deeds.

(D) The right-of-way shall be cleared and graded to its final grade for the full width of the right-of-way. Grades shall not, insofar as practicable, exceed 7%.

(E) Streets shall be crowned to a ratio of ¼ inch per foot, adequate street drainage ditches shall be constructed and storm drain pipe shall be installed in accordance with street improvement specifications established by the city.

(F) ABC (crush and run) stone shall be used for a base course and shall be put in place for a minimum width of 16 feet six inches and compacted to a depth of six inches.

(G) The street shall be surfaced with I-2 asphalt of two-inch thickness and to a width of 16 feet. ('89 Code, § 13-114) Penalty, see § 1-16 *et seq.*

***DIVISION 6 VISIBILITY AT INTERSECTIONS*****§ 13-126 APPLICABILITY.**

This division shall apply to property which is located at corners formed by intersecting streets and which lies within that triangular area bounded by the property lines abutting upon such streets and a diagonal line joining points on such property lines 20 feet from the point of intersection of such property lines.

('89 Code, § 13-126)

**§ 13-127 ADMINISTRATION.**

The administration of this division shall be under the direction of the City Manager who shall investigate violations, issue such notices and orders as are required and perform such other duties as may be necessary to the enforcement of this division.

('89 Code, § 13-127)

**§ 13-128 OBSTRUCTIONS PROHIBITED; EXCEPTIONS.**

(A) Within the area described in § 13-127, and except as provided in subsection (B), it shall be unlawful to install, set out or maintain, or to allow the installation, setting out or maintenance of any sign, hedge, shrubbery, tree, natural growth or other obstruction of any kind which obstructs cross visibility at a level between 30 inches and ten feet above the level of the center of the adjacent intersection.

(B) The provisions of subsection (A) shall not apply to:

(1) Permanent buildings;

(2) Existing grades which by reason of natural topography exceed 30 inches above the level of the center of the adjacent intersection, provided that no obstruction to cross visibility not specifically excepted by this division shall be installed, set out or maintained on any existing grade which is more than 30 inches but less than 72 inches above the level of the center of the adjacent intersection;

(3) Trees having limbs and foliage trimmed in such manner that no limbs or foliage extend into the area between 30 inches and ten feet above the level of the center of the adjacent intersection;

(4) Fire hydrants, public utility poles, street markers and traffic-control devices.

('89 Code, § 13-128) Penalty, see § 1-16 *et seq.*

**§ 13-129 ABATEMENT OF UNLAWFUL OBSTRUCTIONS.**

This division shall be enforced and any obstruction to cross visibility maintained in violation of this division shall be abated in accordance with the following procedure:

(A) The City Manager shall cause to be served by certified mail a written notice and order of abatement upon the owner, tenant or person in charge of the premises upon which such obstruction exists.

(B) Such obstruction shall be removed by the person responsible therefor within ten days from the date of receipt of such notice and order.

(C) Any person receiving such notice and order may, within ten days from receipt thereof, request in writing a hearing before the City Council, such hearing to be held not later than the second regular meeting of the City Council following the date of such request. If any person receiving such notice and

order does not comply with the order and does not request in writing a hearing before the City Council within such ten-day period, the City Manager shall request in writing that the City Council fix the date of the hearing and shall notify the person upon whom the notice and order has been served of the time and place of such hearing. If, after such hearing, the City Council finds that the obstruction in question does in fact constitute a violation of this article, the City Council shall order that such condition be abated within ten days from the date of such order. Upon failure by any person to comply with such an order, the City Manager shall apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property as provided in G.S. § 160A-175(e). ('89 Code, § 13-129)

### **§ 13-130 USE OF TRAFFIC-CONTROL DEVICES.**

Any intersection at which cross visibility is obstructed by any obstruction excepted by § 13-128(b), shall be so marked by appropriate traffic-control devices as to provide for the safety of motorists and pedestrians at such intersection. ('89 Code, § 13-130)

### **§ 13-131 CONFLICTING REGULATIONS.**

If the provisions of any other law, ordinance or regulation of the city or of the state shall be in conflict with the provisions of this division, the more stringent provision shall control. ('89 Code, § 13-131)



## ARTICLE IV: EXCAVATIONS

### Section

- 13-146 Permit required for excavations
- 13-147 Installation of drainage pipes - permit required
- 13-148 Same - application for permit; specifications; issuance of permit
- 13-149 Restoration of street
- 13-150 Protection and warning devices required

### § 13-146 PERMIT REQUIRED FOR EXCAVATIONS.

(A) **EXCAVATION** as used in this article shall mean any cutting, digging, excavating or removing of dirt, sod, sand, gravel or paving material or the disturbing of the same on or within any public street, sidewalk, alley, right-of-way, easement or area.

(B) **PERSON** as used in this article shall include and mean individual, firm and corporation and the plural thereof.

(C) No person shall make any excavation within or on any public street, sidewalk, alley, right-of-way, easement or area within the city for any purpose without first obtaining an excavation permit from the city.

(D) Excavation permits for excavations within the right-of-ways of the state maintained system of streets shall not be issued until the North Carolina Department of Transportation, Division of Highways, has entered into an encroachment agreement permitting the person making the application to make such excavation.

(E) Each excavation permit shall be issued in accordance with and subject to the following rules and regulations:

(1) Applications for excavation permits shall be submitted to the office of the City Clerk and shall be accompanied by the required permit fee; provided that, applications may be made by telephone and permit fees may be billed monthly upon the written authorization of the City Clerk. The application shall contain a description of the excavation to be made, the time required to make the excavation and the excavation areas as required by this article.

(2) Permits shall contain a description of the excavation, and an expiration date and shall be in the form prescribed by the Engineering Department. In the event an excavation project extends beyond the expiration date, a per diem penalty shall be assessed against the person holding the permit

unless such person has made application for and secured an amended permit extending the expiration date.

(3) Any person making an excavation in violation of this article shall be assessed the fees and penalties established by this article; provided that, excavations made for the purpose of making emergency repairs to an existing public or private utility may be made without a permit. The person making such excavations shall secure an extension permit before 5:00 p.m. on the first business day following the date of the excavation.

(4) No person shall be granted an excavation permit unless such person shall have paid all past due excavation fees and penalties owed by such person to the city.

(5) The schedule of fees and penalties set forth in the "Schedule of Excavation Fees and Charges" attached to Ordinance of 10-27-92 are incorporated herein. The Schedule of Excavation Fees and Charges as amended from time to time by the City Council shall be kept in the office of the City Clerk and in the office of the City Engineer for public inspection.

(F) Excavations shall be inspected and repaired in accordance with and subject to the following rules and regulations:

(1) An excavation shall be repaired by the person making it and the repairs shall be made strictly in accordance with the standards and specifications issued by the City Engineer.

(2) Inspections shall be made by the Engineering Department of the city from time to time as work progresses on the excavation project.

(3) Upon completion of the project or upon expiration of the excavation permit, whichever event first occurs, the person making such excavation shall complete the repairs as required by this article and shall remove all debris, materials, tools, equipment and obstructions from the excavation site.

(4) Upon completion of the project or upon expiration of the excavation permit, whichever event first occurs, the City Engineer shall make or cause to be made a final inspection of excavation repairs.

(5) A person making an application for an excavation permit authorized by this article shall at the time the application is made provide the city with a written guarantee which shall:

(a) Be for a period of two years which two-year period shall commence with the date of completion of the last repairs to the excavation; and

(b) Guarantee the excavation and repairs to be free of all defects in materials and workmanship; and

(c) Guarantee that the excavation and repairs were made in full compliance with the standards and specifications issued by the City Engineers.

(6) All excavations made within or on the state maintained system of streets shall also fully comply with the terms and conditions of the person's encroachment agreement with the North Carolina Department of Transportation, Division of Highways, and shall also be subject to inspection by the Division of Highways.

(7) All costs incurred in restoring the street, sidewalk, or other public place to city standards, and state standards, if applicable, shall be borne by the permittee. Upon final approval by the city, and the final approval of the State Inspector if required by the article, the city shall assess any additional fees, penalties, and costs that may be due to the city.

(8) Upon the failure of any person, or company to restore the street, sidewalk, alley, square, or other public right-of-way to city or state standards, the city may order the completion of the work by the city and recover the actual costs of completing the repairs from the person to whom the permit was issued which shall be in addition to permit fees and penalties already due or assessed; and may initiate any appropriate legal and equitable actions as may be necessary to prevent, restrain, correct or abate a violation of this article by the holder of the permit.

(G) Any matter or thing to be done or performed by the City Clerk or the City Engineer may be done or performed by such employee of their respective departments as the City Clerk and the City Engineer may designate.

('89 Code, § 13-146) (Am. Ord. passed 10-27-92) Penalty, see § 1-16 *et seq.*

### **§ 13-147 INSTALLATION OF DRAINAGE PIPES - PERMIT REQUIRED.**

It shall be unlawful for any person to place or install any pipe for the drainage of water within the right-of-way of any public street in the city without having obtained a permit from the city prior to the installation of such pipe.

('89 Code, § 13-147) (Ord. passed 10-16-84) Penalty, see § 1-16 *et seq.*

### **§ 13-148 SAME - APPLICATION FOR PERMIT; SPECIFICATIONS; ISSUANCE OF PERMIT.**

Any person shall prior to the installation of drainage pipe within the right-of-way of any public street, make application to the city for a permit to install such pipe. The application shall be made in the form specified by the City Manager. The application shall be submitted to the Engineering Department of the city which shall determine the size of the pipe which shall be used and which shall determine the requirements and specifications for the proper installation of such pipe in accordance with good engineering practices so that such installation shall not impede but shall facilitate the proper flow of water into the drainage systems of the city. The permit shall be issued in such form as may be prescribed by the City Manager, and shall be signed on behalf of the city by the City Manager, the City Engineer or such other employee of the city as the City Manager may designate.

('89 Code, § 13-148) (Ord. passed 10-16-84) Penalty, see § 1-16 *et seq.*

**§ 13-149 RESTORATION OF STREET.**

It shall be the duty of every person who shall open or dig a ditch, trench or hole in any street, public alley or sidewalk of the city to put such street, public alley or sidewalk in as good condition in all respects as it was before such excavation.

('89 Code, § 13-149) Penalty, see § 1-16 *et seq.*

**§ 13-150 PROTECTION AND WARNING DEVICES REQUIRED.**

It shall be unlawful for any person making any excavation for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover such excavations with planks or place ropes around the same three feet from the ground or to fail to place a sufficient number of red lights around such excavation before dark and to keep such lights burning all night every night such excavation shall be open.

('89 Code, § 13-150) Penalty, see § 1-16 *et seq.*



## ARTICLE V: VEGETATION ON PUBLIC PROPERTY

### Section

- 13-166 Trimming or removal of obstructing shrubbery required
- 13-167 Notice to remedy obstruction; removal without notice in dangerous conditions
- 13-168 Service of notice
- 13-169 Action by city upon failure of owner or occupant to comply with notice
- 13-170 Charges for trimming or removal to become lien
- 13-171 Defect in giving notice not to affect validity of lien
- 13-172 Trimming or removal by city not to prevent city from taking criminal action

### ***Cross-reference:***

*Weeds, wild growth and rubbish, see §§ 6-36 through 6-43*

### **§ 13-166 TRIMMING OR REMOVAL OF OBSTRUCTING SHRUBBERY REQUIRED.**

Every person owning or occupying any premises in the city which adjoins any sidewalk, street or other public way maintained by the city shall keep all shrubbery, bushes or any other vegetation growing on the premises trimmed so that the vegetation does not hang over the public way in such a manner as to constitute an obstruction to the public way. If the overhanging vegetation cannot be trimmed so that it does not constitute an obstruction to the public way, then the person owning or occupying the premises shall remove the overhanging vegetation in its entirety from the edge of the public way.

('89 Code, § 13-166) Penalty, see § 1-16 *et seq.*

### **§ 13-167 NOTICE TO REMEDY OBSTRUCTION; REMOVAL WITHOUT NOTICE IN DANGEROUS CONDITIONS.**

If any person shall violate the provisions of § 13-166, it shall be the duty of the Sanitation Department of the city to give notice to the owner or to any person in possession of the premises in connection with which a violation of such section exists directing that within seven days from the date of such notice the overhanging vegetation constituting the obstruction shall be trimmed so that it does not constitute an obstruction on any public way or else removed in its entirety from the edge of the public way. If the overhanging vegetation is obstructing a public way in such manner as to create a dangerous condition which requires its being trimmed or removed without delay, the Sanitation Department may, without notice, proceed to trim the vegetation so as to remove the obstruction and dangerous condition, or if such obstruction and dangerous condition cannot be removed by trimming the vegetation, the Sanitation Department may proceed to remove the vegetation in its entirety from the

edge of the public way, and the costs thereof shall be charged against the premises.  
(‘89 Code, § 13-167)

### **§ 13-168 SERVICE OF NOTICE.**

The notice required by § 13-167 shall be personally served on the owner of the premises upon which the violation exists if such owner can be ascertained with reasonable diligence and if he can with reasonable diligence be found within the city. If the name of such owner cannot be ascertained or if he cannot with reasonable diligence be found in the city, then such notice shall be personally served on any person in possession of the premises or, if there is no person in possession of the premises, by posting such notice on the premises. If the premises are owned by more than one person, such notice may be served upon any person having any estate or interest in the premises and such service shall be deemed a sufficient compliance with this section. If the premises are owned by a corporation, such notice may be served upon any local officer or agent of the corporation. Any such notice may be served by the Sanitation Department or by any police officer of the city when so authorized by the Sanitation Department.

(‘89 Code, § 13-168)

### **§ 13-169 ACTION BY CITY UPON FAILURE OF OWNER OR OCCUPANT TO COMPLY WITH NOTICE.**

Upon failure of the owner or person in possession of the premises in connection with which a violation of § 13-166 exists to trim or remove the vegetation thereon within the time indicated by the notice, it shall be the duty of the Sanitation Department to have employees of the city go upon the premises and trim the overhanging vegetation so that it does not obstruct a public way, or if the vegetation cannot be trimmed so that it does not constitute an obstruction, then it shall be the duty of the Sanitation Department to have the vegetation removed in its entirety from the edge of the public way. Neither the city nor any of its employees shall be held responsible for any damage resulting to the premises or the vegetation thereon by reason of the city or its employees entering upon the premises for the purpose of trimming or removing overhanging vegetation pursuant to this section or by reason of the city or its employees actually trimming or removing overhanging vegetation pursuant to this section.

(‘89 Code, § 13-169)

### **§ 13-170 CHARGES FOR TRIMMING OR REMOVAL TO BECOME LIEN.**

Upon completion of such trimming or removing of vegetation, the Sanitation Department shall deliver to the City Tax Collector a statement showing the actual cost of trimming or removing the vegetation in which statement, in addition to the costs of labor, hauling and other necessary items of expense, there shall be included the sum of \$1 to cover costs of notice and collection. The City Tax Collector shall thereupon mail to the owner of the premises a bill covering such costs, if with reasonable diligence the name and address of such owner can be ascertained. The amount of this bill shall become a lien upon the property constituting the premises upon which the trimming or removing

occurred, and if not paid within 30 days shall be collected as in the manner provided for the collection of delinquent taxes.

('89 Code, § 13-170)

**§ 13-171 DEFECT IN GIVING NOTICE NOT TO AFFECT VALIDITY OF LIEN.**

Any defect in the method of giving notice required by § 13-166, or in the form thereof or the giving of such notice to an improper person shall not prevent the city, in any case where the work of trimming or removing vegetation is actually done by the city, from collecting the costs thereof from the owner, nor shall it affect the validity of the lien on such property for such costs.

('89 Code, § 13-171)

**§ 13-172 TRIMMING OR REMOVAL BY CITY NOT TO PREVENT CITY FROM TAKING CRIMINAL ACTION.**

The trimming or removing of vegetation in accordance with the procedure prescribed in this division shall not prevent the city from proceeding in a criminal action against any person violating the provisions of this division.

('89 Code, § 13-172)



## ARTICLE VI: PARKS AND RECREATIONAL AREAS

### Section

- 13-190 Definition
- 13-191 Possession of alcoholic beverages prohibited
- 13-192 Operation of motor vehicles
- 13-193 Entering closed park or recreation area prohibited
- 13-194 Hazardous recreation parks
- 13-195 Registered sex offenders prohibited from entering City of Eden Parks and Recreation areas.

### § 13-190 DEFINITION.

For the purpose of this article the following definition shall apply unless the context clearly indicates or requires a different meaning.

**PUBLIC PARK.** Any open space of building owned by the city which can be used for recreation purposes and includes, but is not limited to, park land, playgrounds, ball fields, walking trails, greenway trails, picnic shelters, field houses, and recreation buildings.  
(Ord. passed 4-18-06)

### § 13-191 POSSESSION OF ALCOHOLIC BEVERAGES PROHIBITED.

It shall be unlawful for any person to have in his or her possession any alcoholic beverages on any real property of the city that is used for any of the following purposes:

- (A) A city park;
- (B) A recreational area;
- (C) A firing or shooting range for the use of firearms.

(D) This ordinance shall not be applicable to the possession of alcoholic beverages at events, restaurants, or stores that have obtained a permit under Code Section 13-9.  
(’89 Code, § 13-191) (Am. Ord. passed 9-21-93) (Am. Ord. passed 11-18-08) Penalty, see § 1-16 *et seq.*

### § 13-192 OPERATION OF MOTOR VEHICLES.

(A) It shall be unlawful for any person to operate any motorized vehicle, mini-bike, motorcycle, golf cart or vehicle in, over, or through any public park except along and on park drives, designated parking areas, parkways or areas designated by the Parks and Recreation Director. It shall be unlawful

for any person to park or permit any vehicle to be parked in any public park, except on designated parking areas authorized by the Parks and Recreation Department. City-owned vehicles and other vehicles with express permission of the Parks and Recreation Director are permitted for necessary maintenance and repairs.

(B) Persons having a mobility impairment who operate a motorized wheelchair or similar vehicle not exceeding 1000 pounds gross weight in order to provide that person with mobility of a pedestrian, are not subject to the restrictions of this section as applicable to motorized vehicles.  
(’89 Code, § 13-192) (Am. Ord. passed 4-18-06) Penalty, see § 1-16 *et seq.*

### **§ 13-193 ENTERING CLOSED PARK OR RECREATION AREA PROHIBITED.**

It shall be unlawful for any person to enter or be in the city park or any city recreation area when the park shall be closed.

(’89 Code, § 13-193) Penalty, see § 1-16 *et seq.*

***Statutory reference:***

*Parks and recreation, see G.S. § 160A-350 et seq.*

### **§ 13-194 HAZARDOUS RECREATION PARKS.**

Any person engaging in skateboarding, inline skating, or freestyle bicycling in a public park designated for such activities must wear a helmet, elbow pads, kneepads, and shoes. Signs shall be placed, erected or installed at the facility giving notice of this section and that violators will be subject to punishment of a Class 3 misdemeanor and will be fined not more than \$500.

(Ord. passed 10-17-06)

### **§ 13-195 REGISTERED SEX OFFENDERS PROHIBITED FROM ENTERING CITY OF EDEN PARKS AND RECREATION AREAS.**

(a) For purpose of this Section the following definitions shall apply:

- (1) Registered Sex Offender – an individual who is registered any state or federal agency as a sex offender and whose name is published on any state or federal registered sex offender listing, including, but not limited to the sex offender registry established in Chapter 14, Article 27A of North Carolina General Statutes.
- (2) City of Eden Parks and Recreation Areas – Any City owned, leased, operated or maintained land which is designated by the City as a park or recreation area. This includes, but is not limited to, all parks, athletic fields, recreation centers, greenways, river access points, etc.

(b) No Registered Sex Offender shall knowingly enter into or upon any City of Eden Parks and Recreation Areas operated by the City of Eden. Each entry into such areas, regardless of the time period between such entries, shall constitute a separate offense under this ordinance.

(c) Anyone who is found in violation of this ordinance shall be guilty of a Class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00) per offense and/ or thirty (30) days in jail as set forth in North Carolina General Statute Sec. 14-4.

(d) The City Manager or his/her designee shall post this regulation at the main entrance of each park and recreation area within thirty (30) days of passage of this ordinance.

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declared that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

That all ordinances and clauses of ordinances in conflict herewith be and are repealed, to the extent of such conflict.

(Ord. passed 2-17-2009)

## ARTICLE VII: NUMBERING OF PROPERTY

### Section

- 13-211 Adoption of map
- 13-212 Numbering system
- 13-213 Display of number
- 13-214 Numbers for future buildings
- 13-215 Altering, defacing or removing numbers prohibited

### § 13-211 ADOPTION OF MAP.

The map entitled *City of Eden, Property Numbering Map*, dated December, 1968, referred to throughout this article as the property numbering map, is hereby adopted as the official property numbering map of the city, and all property numbers assigned shall be assigned in accordance with this numbering map. No other property numbers shall be used or displayed in the city except numbers assigned in accordance with the official numbering map. The property numbering map shall be kept on file in the office of the City Clerk.

('89 Code, § 13-211)

### § 13-212 NUMBERING SYSTEM.

(A) On the property numbering map, Van Buren Road is hereby designated as the north-south axis, and Stadium Drive as extended to Church Street is hereby designated as the east-west axis. All avenues, streets and alleys running generally north and south shall be numbered from the east-west axis consecutively to the corporate limits or the extremity of such avenue, alley or street. Avenues, streets or alleys running generally east and west shall be numbered from the north-south axis in the same manner. Wherever possible, 100 numbers shall be allowed to each block so that the number of each consecutive block shall commence with consecutive hundreds and one. If it is not practical to assign 50 feet of ground for each whole number in the business sections of the city, one whole number may be assigned for each 25 feet of ground on the streets described as follows:

- (1) Boulevard Street, Oak Street to Glovenia Street;
- (2) Fieldcrest Road, Stadium Drive to Main Street;
- (3) Monroe Street, Washington Street to Jay Street;
- (4) Morgan Street, Lee Street to Aiken Road;



(5) Van Buren Road, Kings Highway to Arbor Lane;

(6) Washington Street, Bridge Street to Patrick Street.

(B) One whole number shall be assigned for every 50 feet of ground whether improved property or vacant lot on every street within the corporate limits. Odd numbers shall be assigned to the west side of the street on all north-south streets and even numbers to the east side. On east-west streets, odd numbers shall be assigned to the north side of the street and even numbers to the south side.

('89 Code, § 13-212)

### **§ 13-213 DISPLAY OF NUMBER.**

Every property owner of improved property shall furnish and display in a conspicuous place on such property the number assigned.

('89 Code, § 13-213)

### **§ 13-214 NUMBERS FOR FUTURE BUILDINGS.**

All residence and business buildings erected after the adoption of the ordinance from which this section derives, shall be assigned a number in accordance with the property numbering map and shall purchase and display such number as provided in § 13-213.

('89 Code, § 13-214)

### **§ 13-215 ALTERING, DEFACING OR REMOVING NUMBERS PROHIBITED.**

It shall be unlawful for any person to alter, deface or take down any number placed on any property in accordance with this article, except for repair or replacement of such number.

('89 Code, § 13-215) Penalty, see § 1-16 *et seq.*

